

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN ASSEMBLY MAY 12, 2003

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1285

Introduced by Assembly Member Salinas
(Coauthors: Senators Denham and McPherson)

February 21, 2003

~~An act to add Section 5090 to the Vehicle Code, relating to vehicles.~~
An act to amend Section 1600 of the Penal Code, and to amend Sections 6607 and 6608 of the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1285, as amended, Salinas. ~~Vehicles: special license plates; agricultural design~~ *Sexually violent predators.*

Existing law defines a sexually violent predator as a person who has been convicted of a sexually violent offense against 2 or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior. Existing law provides that the Director of Corrections may identify an individual who is in custody under the jurisdiction of the Department of Corrections who may be a sexually violent predator and refer him or her for screening and evaluation, as specified. Existing law provides that the person shall be committed for 2 years to the custody of the State Department of

Mental Health and provided with programming that shall afford the person with treatment for his or her diagnosed mental disorder in a secure facility designated by the Director of Mental Health if it is proven beyond a reasonable doubt that the person is a sexually violent predator.

Existing law provides that if the Director of Mental Health determines that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under supervision and treatment in the community, the director shall forward a report and recommendation for conditional release to the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and the court shall set a hearing, as specified. Existing law provides that a person who has been committed as a sexually violent predator may petition the court for conditional release with or without the recommendation or concurrence of the Director of Mental Health. Existing law provides that upon receipt of a petition from the Director of Mental Health or a committed person, if that petition is not based upon frivolous grounds, the court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community, if not, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. Existing law provides that at the end of one year, the court shall hold a hearing to determine whether the person should be unconditionally released from commitment or placed on outpatient status. Existing law provides that before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of Mental Health shall submit a written recommendation to the court, as specified.

This bill would provide that if the Director of Mental Health forwards to the court a report and recommendation for conditional release of a person committed as a sexually violent predator, or a person so committed petitions the court for conditional release, the court shall appoint 2 independent professionals selected from a list maintained by the Director of Mental Health to evaluate the readiness of the person for placement in the community under reasonable terms and conditions. This bill would provide that if a committed person petitions the court for release, the court shall, within 5 court days, give notice to the Director



of Mental Health that the person has filed a petition for conditional release. This bill would provide that if both professionals concur that the person's diagnosed mental disorder has so changed that the person is not likely to commit acts of predatory sexual violence while under reasonable terms and conditions for supervision and treatment in the community, the court shall forward copies of the reports to the Director of Mental Health and shall set the matter for hearing. If there is not agreement of the 2 professionals, the court would deny the petition. This bill would provide that the Director of Mental Health shall report to the court as to whether he or she concurs with the opinions and conclusions of the 2 independent professionals in the reports submitted. This bill would provide that if a hearing is held the determination to be made shall be whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under reasonable terms and conditions for supervision and treatment in the community. This bill would require that before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of Mental Health would submit a written recommendation to the court stating reasonable terms and conditions for supervising and treating the committed person in the community.

The bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the Department of Motor Vehicles to design and issue special interest license plates containing the distinctive design or decal of organizations that meet certain criteria.~~

~~This bill would require the department, in consultation with the California Future Farmers of America Foundation, to issue agricultural special interest license plates, as specified. After deducting its costs in administering this special license plate program, the bill would require the department to deposit all revenue derived under the program, except as specified, in the Motor Vehicle Account in the State Transportation Fund.~~

~~The bill would require the money deposited in the account under these provisions to be allocated by the Controller, upon appropriation, to the California Future Farmers of America Foundation for expenditure for the purpose of funding agricultural education and outreach programs, with 10% or more of the funds to be distributed by the foundation to agricultural employees or their children for~~



~~scholarships to attend universities or colleges, community colleges, or vocational education programs.~~

Vote: ~~majority~~ ²/₃. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 5090 is added to the Vehicle Code, to~~
2 ~~SECTION 1. Section 1600 of the Penal Code is amended to~~
3 ~~read:~~
4 1600. Any person committed to a state hospital or other
5 treatment facility under the provisions of Section 1026, or Chapter
6 6 (commencing with Section 1367) of Title 10 of this code, or
7 Section 6316 or 6321 of the Welfare and Institutions Code may be
8 placed on outpatient status from that commitment subject to the
9 procedures and provisions of this title, except that a
10 developmentally disabled person may be placed on outpatient
11 status from that commitment under the provisions of this title as
12 modified by Section 1370.4. Any person committed as a sexually
13 violent predator under the provisions of Article 4 (commencing
14 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the
15 Welfare and Institutions Code may be placed on outpatient status
16 from that commitment *under reasonable terms and conditions for*
17 *supervision and treatment in the community* in accordance with the
18 procedures described in ~~Title 15 (commencing with Section 1600)~~
19 ~~of Part 2 of the Penal Code Sections 1605 to 1610, inclusive.~~
20 SEC. 2. Section 6607 of the Welfare and Institutions Code is
21 amended to read:
22 6607. (a) If the Director of Mental Health determines that the
23 person's diagnosed mental disorder has so changed that the person
24 is not likely to commit acts of predatory sexual violence while
25 under *reasonable terms and conditions for* supervision and
26 treatment in the community, the director shall forward a report and
27 recommendation for conditional release in accordance with
28 Section 6608 to the county attorney designated in subdivision (i)
29 of Section 6601, the attorney of record for the person, and the
30 committing court.
31 (b) When a report and recommendation for conditional release
32 is filed by the Director of Mental Health pursuant to subdivision
33 (a), the court shall *appoint two independent professionals in*

1 *accordance with subdivision (b) of Section 6608 to evaluate the*
 2 *readiness of the person for placement in the community under*
 3 *reasonable terms and conditions. After the court receives reports*
 4 *from both appointed independent professionals, the court shall set*
 5 *a hearing in accordance with the procedures set forth in Section*
 6 *6608.*

7 SEC. 3. Section 6608 of the Welfare and Institutions Code is
 8 amended to read:

9 6608. (a) Nothing in this article shall prohibit the person who
 10 has been committed as a sexually violent predator from petitioning
 11 the court for conditional release and subsequent unconditional
 12 discharge without the recommendation or concurrence of the
 13 Director of Mental Health. If a person has previously filed a
 14 petition for conditional release without the concurrence of the
 15 director and the court determined, either upon review of the
 16 petition or following a hearing, that the petition was frivolous or
 17 that the committed person's condition had not so changed that he
 18 or she would not be a danger to others in that it is not likely that
 19 he or she will engage in sexually violent criminal behavior if
 20 placed under *reasonable terms and conditions* for supervision and
 21 treatment in the community, then the court shall deny the
 22 subsequent petition unless it contains facts upon which a court
 23 could find that the condition of the committed person had so
 24 changed that a hearing was warranted. Upon receipt of a first or
 25 subsequent petition from a committed person without the
 26 concurrence of the director, the court shall endeavor whenever
 27 possible to review the petition and determine if it is based upon
 28 frivolous grounds and, if so, shall deny the petition without a
 29 hearing. The person petitioning for conditional release and
 30 unconditional discharge under this subdivision shall be entitled to
 31 assistance of counsel. *The court, within five court days, shall give*
 32 *notice to the Director of Mental Health that the person has filed*
 33 *a petition for conditional release pursuant to this section.*

34 (b) *If the court determines that the petition is not frivolous, it*
 35 *shall refer the person for evaluation by two independent*
 36 *professionals. The professionals shall be selected from a list*
 37 *maintained by the Director of Mental Health and shall meet the*
 38 *criteria set forth in subdivision (g) of Section 6601. The reports of*
 39 *the independent professionals shall be submitted to the court*
 40 *within a reasonable period of time set by the court. If both*

1 *professionals concur that the person's diagnosed mental disorder*
2 *has so changed that the person is not likely to commit acts of*
3 *predatory sexual violence while under reasonable terms and*
4 *conditions for supervision and treatment in the community, the*
5 *court shall forward copies of the reports to the Director of Mental*
6 *Health and shall set the matter for hearing and give notice in*
7 *accordance with subdivision (c). If the two professionals do not*
8 *concur that the person's diagnosed mental disorder has so*
9 *changed that the person is not likely to commit acts of predatory*
10 *sexual violence while under reasonable terms and conditions for*
11 *supervision and treatment in the community the court shall deny*
12 *the petition.*

13 (c) The court shall give notice of the hearing date to the attorney
14 designated in subdivision (i) of Section 6601, the retained or
15 appointed attorney for the committed person, and the Director of
16 Mental Health at least 15 court days before the hearing date.

17 ~~(e)~~ *Within 10 court days of receipt of this notice, the Director*
18 *of Mental Health shall report to the court as to whether he or she*
19 *concurs with the opinions and conclusions of the two independent*
20 *professionals in the reports submitted pursuant to subdivision (b).*

21 (d) No hearing upon the petition shall be held until the person
22 who is committed has been under commitment for confinement
23 and care in a facility designated by the Director of Mental Health
24 for not less than one year from the date of the order of commitment.

25 ~~(d)~~

26 (e) The court shall hold a hearing to determine whether the
27 person committed would be a danger to the health and safety of
28 others in that it is likely that he or she will engage in sexually
29 violent criminal behavior due to his or her diagnosed mental
30 disorder if under *reasonable terms and conditions for* supervision
31 and treatment in the community. If the court at the hearing
32 determines that the committed person would not be a danger to
33 others due to his or her diagnosed mental disorder while under
34 *reasonable terms and conditions for* supervision and treatment in
35 the community, the court shall order the committed person placed
36 with an appropriate forensic conditional release program operated
37 by the state for one year. A substantial portion of the state-operated
38 forensic conditional release program shall include outpatient
39 supervision and treatment. The court shall retain jurisdiction of the
40 person throughout the course of the program. At the end of one

year, the court shall hold a hearing to determine if the person should be unconditionally released from commitment on the basis that, by reason of a diagnosed mental disorder, he or she is not a danger to the health and safety of others in that it is not likely that he or she will engage in sexually violent criminal behavior. The court shall not make this determination until the person has completed at least one year in the state-operated forensic conditional release program. The court shall notify the Director of Mental Health of the hearing date.

~~(e)~~

(f) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of Mental Health shall submit a written recommendation to the court stating ~~which forensic conditional release program is most appropriate~~ *reasonable terms and conditions* for supervising and treating the committed person *in the community*. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons *therefor, and* for its *final* order on the record. The procedures described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

~~(f)~~

(g) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or his or her designee, shall make the necessary placement arrangements and, within 21 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

~~(g)~~

(h) If the court rules against the committed person at the trial for unconditional release from commitment, the court may ~~place~~ *order* the committed person *continued* on outpatient status in accordance with the procedures described in ~~Title 15 (commencing with Section 1600) of Part 2 Sections 1605 to 1610, inclusive,~~ of the Penal Code.

~~(h)~~

1 (i) If the court denies the petition to place the person in an
2 appropriate forensic conditional release program or if the petition
3 for unconditional discharge is denied, the person may not file a
4 new application until one year has elapsed from the date of the
5 denial.

6 ~~(i)~~—

7 (j) In any hearing authorized by this section, the petitioner shall
8 have the burden of proof by a preponderance of the evidence.

9 ~~(j)~~—

10 (k) If the petition for conditional release is not made by the
11 ~~director of the treatment facility to which the person is committed~~
12 *Director of Mental Health*, no action on the petition shall be taken
13 by the court without first obtaining the written recommendation of
14 the director of the treatment facility *where the person has been*
15 *receiving treatment*.

16 ~~(k)~~—

17 (l) Time spent in a conditional release program pursuant to this
18 section shall not count toward the term of commitment under this
19 article unless the person is confined in a locked facility by the
20 conditional release program, in which case the time spent in a
21 locked facility shall count toward the term of commitment.

22 SEC. 4. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety
24 within the meaning of Article IV of the Constitution and shall go
25 into immediate effect. The facts constituting the necessity are:

26 In order to ensure the public's safety from sexually violent
27 predators who may be eligible for release without adequate
28 treatment, it is necessary for this act to take effect immediately.
29 read:

30 ~~5090. (a) The department, in consultation with the California~~
31 ~~Future Farmers of America Foundation, shall design and make~~
32 ~~available for issuance pursuant to Section 5060 special~~
33 ~~agricultural design license plates that may be issued in a~~
34 ~~combination of numbers or letters, or both, as requested by the~~
35 ~~applicant for the plate. A person described in Section 5101, upon~~
36 ~~payment of the additional fee or fees set forth in subdivision (b),~~
37 ~~may apply for and be issued a set of these special agricultural~~
38 ~~design license plates.~~

39 ~~(b) In addition to the regular fees for an original registration,~~
40 ~~renewal of registration, or transfer or replacement of the license~~

1 ~~plates, the following additional fees shall be paid for the issuance,~~
2 ~~renewal, retention, or transfer or replacement of the special~~
3 ~~agricultural design license plates authorized under this section:~~

4 ~~(1) For the original issuance of the plates, fifty dollars (\$50).~~

5 ~~(2) For a renewal of registration of the plates, or the retention~~
6 ~~of the plates if renewal is not required, forty dollars (\$40).~~

7 ~~(3) For transfer of the plates to another vehicle, fifteen dollars~~
8 ~~(\$15).~~

9 ~~(4) For each replacement plate, thirty-five dollars (\$35).~~

10 ~~(5) For the conversion of an existing special interest license~~
11 ~~plate to the special interest license plate authorized under this~~
12 ~~section, sixty-five dollars (\$65).~~

13 ~~(6) For the issuance of an environmental license plate, as~~
14 ~~defined in Section 5103, with the graphic design described in~~
15 ~~subdivision (a), the additional fees prescribed in Sections 5106 and~~
16 ~~5108, which shall be deposited in the Environmental License Plate~~
17 ~~Fund.~~

18 ~~(e) After deducting its costs in administering this section, the~~
19 ~~department shall deposit all revenue derived under this section,~~
20 ~~except as required under paragraph (6) of subdivision (b), in the~~
21 ~~Motor Vehicle Account in the State Transportation Fund.~~

22 ~~(d) Upon appropriation, the funds deposited in the account~~
23 ~~under subdivision (e) shall be allocated by the Controller to the~~
24 ~~California Future Farmers of America Foundation for expenditure~~
25 ~~for the purpose of funding agricultural education and outreach~~
26 ~~programs.~~

27 ~~(e) Ten percent or more of the funds allocated under~~
28 ~~subdivision (d) shall be distributed by the California Future~~
29 ~~Farmers of America Foundation to agricultural employees or their~~
30 ~~children for scholarships to attend universities or colleges,~~
31 ~~community colleges, or vocational education programs.~~